COURT SUSTAINS CONTENTION OF TAFT ELECTORS

Continued from Page 1.

names of the candidates in more than The text of the decision is given be-

Statement of Facts.

It is made to appear by the affidavit f ore of the relators that Thomas Sevy of ore of the relators that Thomas Sevy Lafayette Holbrook and Henry Cohn were duly nominated by a convention of the Republican party as presidential electors to be voted for at the election to be held Nov. 3, 1908; that the candidates of such Republican party for president and vice president are William H. Taft and James S. Sherman; that a certificate was duly filed with the secretary of state showing such persons to tary of state showing such persons to be the nominees of the Republican party for such presidential electors; that the relators, together with more than 500 other voters residing within the state designating themselves as the signers of the "Taft-Liberal ticket," signed a certificate of nomination in writing for the nomination of said Sevy, Holbrook and Cohn for presidential electors, and other persons for other public offices, also to Cohn for presidential electors, and other persons for other public offices, also to be voted for on the said third day of November. The petition contains sufficient averments showing that such nominations were made by such voters otherwise than by convention or committee, and as provided by Section 825 of the Compiled Laws of Utah, 1907, and that a certificate of such nomination was filed with the secretary of state as by law with the secretary of state as by law provided. The affidavit in substance re-cites that not one, but that two separate and distinct nominations were made of the said Sevy. Holbrook and Cohn as presidential electors, one by the Repub-lican party in convention, and one by more than 500 voters under the name of the "Taft-Liberal ticket," and that both prominations were duly certified to and the "Taft-Liberal ticket," and that both nominations were duly certified to and the certificates filed with the secretary of state. It is further alleged that, after the nomination of said electors was made by the voters of the Taft-Liberal ticket and the certificate of such nomination filed with the secretary of state, the said Sevy. Holbrook and Cohn attempted to decline such nomination on the Taft-Liberal ticket by notifying the secretary of state on the thirteenth day of October, 1908, in writing, signed by them and duly acknowledged, in the following language:

Notice of Withgrawal.

"Having been nominated by certain voters residing within the state of Utan and affiliating under the political name f Taft-Liberal ticket' by a certificate f nomination filed in your office Oct. 1908, for the office of presidential elector to vote for president and vice president of the United States, I hereby notify you that I decline such nomination by such voters on said 'Taft-Liberal ticket': nothing herein contained, how-ever, shall be construed as a declina-

Basis of Contention.

Both parties agree that the determinathe question as to whether a nominee who has been nominated by two political parties for the same office, or by one politicate party and by voters by certificate of nomination, as here shown by the petition, may decline the nomination of one without also declining the other. That the three nominees for presidential That the three nominees for presidential electors have, in unmistakable terms, declined the nomination made by the voters of the Taft-Liberal ticket, and have not declined, but have accepted, the nomi-nation made by the Republican party. declined, but have accepted, the nomination made by the Republican party. Such a construction gives to a group of voters the power to impose a condition under which a nominee regularly

remarkably low price.

and fully as attractive.

sive to the-expensive.

HAMILTON'S

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Our buyers have returned from a second trip this season

to the fashion centers, where they purchased one of the

most complete stocks that we have ever shown and at a

The tailor-made suits, the three-piece suits and the

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their designers have ever before brought out, and the

beautiful colorings are in accordance with these new lines

In fact, each department is complete with the choicest

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the price of its merchandise ranges from the less expen-

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is, that the nominees could not decline the one without also declining the other; that a nominee, to effectually decline a nomination, must decline the office for which he is nominated; and, inasmuch which he is nominated; and, inasmuch as the presidential electors declined the nomination made by the voters of the Taft-Liberal ticket and did not decline that made by the Republicar, party, the notification filed by them by the secretary of state is, in effect, no declination. The statute on the subject, being Section 823, C. L. 1907, reads as follows:

"Whenever any person nominated for public office, as in this chapter provided, shall, not less than twelve days before

shall, not less than twelve days before the day of election, if he shall have been nominated as provided in Section 822, or nominated as provided in Section 822, or less than ten days before the day of election, if he shall have been nominated as provided in Section 825, notify the officer with whom the original certificate to his nomination was filled, in writing signed by him and duly acknowledged, that he declines such nomination, the same shall be void and his name shall not be printed upon the ballots. The officer to whom such notification is given shall for them the party or group of voters. As appears by the petition that when the voters of the Taft-Liberal ticket nominated the three electors, such nomination was wholly separate and distinct, and independent from, the nomination made by the Republican party. If the nomination which the voters of the Taft-Liberal ticket made could in no manner affect the nomination which was made

tion, the same shall be void and his name shall not be printed upon the ballots." It is apparent that this phrase cannot be construed literally without do ing violence to the true meaning of the statute. That is to say, it cannot be said that because a person has been nominated for public office and has declined such nomination, when he is again nominated for public office to be voted for at the same election, his name cannot be printed on the ballots. For instance, suppose A is nominated for district judge in convention or by committee of a political party, a certificate of his nomination duly filed, and he thereafter, as by law provided parties the proper of by law provided, notifies the proper of-ficer that he declines such nomination; that thereafter he is nominated by the same political party in convention or by committee for the office of justice of the supreme court, to be voted for at the same election, no one would seriously contend that because he declined the nomination of district judge his name shall not be printed on the official ballot as the nominee of the party nominating him for justice of the supreme court. It, however, may be said that such illustration pertains to different public offices. Quite true. Nevertheless such instance illustrates that the statute construction the same election, no one would serious cannot receive a literal construction inated for public office notifies the proper without destroying its true meaning.

Another Way of Putting It.

But suppose again that A should be minated for state auditor on the Republican ticket and on the sixtieth day before the election (that being the earliever, shall be construed as a declination of my nomination for presidential elector to vote for president and vice president of the United States heretofore made by the Utah Republican state convention on Sept. 15, 1908, which said last-named nomination I hereby expressly accept."

It is further alleged that by reason of such notification the secretary of state accepted such writing so filed with him as resignations of the nominations of said Sevy. Holbrook and Cohn as presidential electors on the Taft-Liberal ticket and that he refused to certify to the clerks of the several countles of the state such nominations as nominees of the Taft-Liberal ticket, and that such it the service of the election (that being the earliest day on which a certificate may be filed on the filed) a certificate of his nomination is names of these presidential electors are not placed on the official ballot under the title of the Taft-Liberal ticket, as well as under the party name or title of the Equilibrium party, voters who are decisious of voting for electors who will vote for William H. Taft for president and James S. Sherman for vice president and James S. Sherman fo the Taft-Liberal ticket, and that such if the statute is to receive a mere literal provided easy and convenient mean refusal and threatened action of the sectors retary of state will prevent the names evitably followed.

the relators pray that a writ of mandate issue from this court commanding the secretary of state to certify to the clerks of the various counties of the state such nominations of presidential electors as made by the voters of the Taffaliboral mittee, after his declination, may have of the various counties of the state such nominations of presidential electors as made by the voters of the Taft-Liberal ficket, in order that the names of such nominees may be placed on the official ballot under the name or title of the Taft-Liberal ticket.

To the petition or affidavit so filed the respective of state based entered as the state state of such nomination properly and a certificate of such nomination properly and nomination properly a the secretary of state has demurred on the ground that the facts stated do not entitle the relators to the relief prayed name printed on the ballots has become for. action taken by another party or group of voters can destroy or modify that right. That is to say, the Republican right. right. That is to say, the Republican party, having, in convertion, duly nominated the said Sevy, Holbrook and Cohn as presidential electors, and a certificate of their nomination having been duly filed, and such nomination not declined, but accepted by them, the relators in effect assert that they must also accept a nomination made by them, else decline all, and get off the ticket.

Power to Impose Condition.

nominated on another ticket may have his name appear on the printed ballots. That is, it gives them the power to assert that unless the nominee accepts the we have beautiful hats at \$7 and \$10. particular nomination which is tendered by them he can accept no nomination and cannot have his name appear on the printed ballots, notwithstanding his nom-ination regularly made, and a cer-tificate thereof filed, by another politi-

cal party.

The statute contemplates that each political party which presented candidates at the last preceding election has the right to make nominations for public offices, not that someoue else may do it for them; that when it has made such nominations and filed a certificate thereof, as by law provided, it has the right to have the names of such nominations.

Ceptionally attractive collection which includes many copies and adaptations of French models.

On account of the grand success and the public's appreciation of the exceptionally attractive collection which includes many copies and adaptations of the public's appreciation of the exceptionally attractive collection which includes many copies and adaptations of the public's appreciation of the exceptionally attractive collection which includes many copies and adaptations of the public's appreciation of the exceptionally attractive collection which includes many copies and adaptations of the public's appreciation of the exceptional values in our \$5 plume sale Saturday, the lot has been replenished and the public's appreciation of the exceptional values in our \$5 plume sale Saturday, the lot has been replenished and the public's appreciation of the exceptional values in our \$5 plume sale Saturday, the lot has been replenished and the public sale and the public's appreciation of the exceptional values in our \$5 plume sale Saturday, the lot has been replenished and the public sale and the affect the nomination which was mad Section \$22 therein referred to provides by the Republican party, then likewise by the nomination by convention or committee; Section \$25, by certificate of nomination as made by the relators and those who signed with them. Hinges on a Phrase.

The question hinges mainly on the phrase "that he declines such nominasons other than the Republican nomi

Office and Nomination.

But it is said that when a person has been nominated for public office and de-clines such nomination, he must also de-cline the office That is, it is asserted that the declination of the nomination necessarily implies a declination of the office as well. That would be true so far as the matter applies to the particula nomination which is declined. But the vice of the argument lies in the fact that the statute in question is considered to the primary thing there expressed, and that the declination provided for pri-marily pertains to public office, and that the term nomination used by the statutis but secondary. The statute pertains to declination rather than that a public office is declined. One ordinarily car only properly decline something which has been tendered him. A person nominated for public office is tendered only a nom ination for public office. He is not then tendered a public office. When, there fore, he declines, he declines the nomina tion. Such seems to be the meaning o the statute under consideration, wherei officer "that he declines such nomina tion, the same shall be void." That is the nomination which he declines is void not that some other nomination which h does not decline is also void.

Ample Means Provided.

retary of state will prevent the names of such electors from appearing on the official ballot under the name or title of the Taft-Liberal ticket, and that the voters who desire to vote for electors wino will support William H. Taft and James S. Sherman for president and vice president, and who do not desire to vote for other candidates upon the other Republican ticket are thereby deprived of an easy and a reasonable opportunity to vote for such presidential electors.

Upon substantially the foregoing facts the relators pray that a writ of mandate.

Limit to Grouping. But the primary and principal right con ferred is to make nominations, not that a group of voters may select various nominees made by other parties for whom they are desirous of voting and have them grouped under one ticket for the mere purpose that an opportunity may be afforded them to vote a straight ticket. Such a thing is not what is contemplated by the statute. For instance, suppose a group of voters are desirous of voting for one of the nominees nominated for district judge on the Republicar ticket, for one on the Democratic ticket one one the "American" ticket, one one the Socialist ticket, and for a Republicar nominee for another office, a Democratic nominee for still another, and so on, se-lecting various nominees on different tickets, the statute does not contemplate that they are entitled to have s names so selected grouped under ticket for the mere purpose of having a opportunity to vote a straight ticket.

But apart from these considerations, we know of no principle of law which authorizes us to declare that a person nominated by a group of voters, or by a

olitical party, is obliged to accept such comination notwithstanding his declinaon. If a political party, or a group o oters, nominate a person for public of ce, which is declined by him, such nomeation is void, and such political party r group of voters has made no nomina-on for such public office. Their status the same as though no such nomination d been made by them, except the right fill the vacancy as by law provided.

Right to Decline.

Our conclusion, therefore, is that on the facis as made to appear by the affi-davit of the relators the persons nomi-nated by the voters of the Taft-Liberal ticket as presidential electors have the r as was done by them, and that the oters of that ticket had no nominees for residential electors, and therefore the eretary of state was justified in refusg to certify to the clerks of the various unties such names as nominees of that The demurrer is therefore sustained.

Denhalter Wins.

Byron W. Denhalter, Provo, Utah, on first prize in the guessing contest held by the Cache Valley Condensed Milk company on the number of cans n their Honeysuckle Cream display at the recent state fair. Mr. Denhalter guessed the exact number, 3171 cans, nd will receive \$10 cash. There were hree ties for second prize, viz., Edvard Hanson, Logan, Utah, 3170; C. W. Perkins, Gunnison, Utah. 3170; A. Sadr, 332 East Sixth South, Salt Lake,

Priezs will be paid these persons if they will call or write to the Salt Lake City office of the company, 477 South Main street.

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DR. A. C. BEHLE-Suite 512A-512B-513-14; phone Ind. 3028. Formerly at Sum-nit block, rooms 3-4-5. DR R. R. BROWNFIELD-Suite 406; Bell 2449; surgery and diseases of women. Office hours—11 to 1; 2 to 5.

OSTEOPATH-DR. J. C. WOODM&N-SEE-Suite 306; phone Ind. 896-A. For-merly at 509 Tribune bldg.

DR. H. A. WHYTOCK-Suite 504. For-merly located in Brocks' arcade.

DR. FRED W. MEAKIN, suite 508-9. Bell phone 1719. Removed from suite 27, Hooper Bldg. DR. F. F. REED, 503 Judge Bldg. Ind. phone 1807. Hours, 9 to 5.

and seems to get right at the seat of Ind. 983. Removed from 2581/2 So. Main. DR. WILLIAM M. WADDELL-Suite 401-2-434; phone Bell 894. Formerly at Templeton block.

DR J F. McENANY-Sulte 403; phone Ind. 542. Formerly at 303 Auerbach bldg DR F. L. GOWER. Orthodontia spe-cialist, suite 501 and 534. DR. EARL G. VAN LAW-Suite 501;

HARRY J. ROBINSON—Suite 304-305; and phone 3270. Removed from 102-3 Mer-antile block.

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Assessment No. 16. NEW YORK BONANZA MINING CO .-

NEW YORK BONANZA MINING CO.—
Principal place of business. No. 12 East
Second South street, Salt Lake City, Utah.
Notice is hereby given that at a meeting of the board of directors of the New
York Bonanza Mining Co., held on the
3d day of October, 1998, an assessment of
two (2) cents per share was levied and
assessed on the capital stock of said corporation, payable at the office, No. 12
East Second South street, Salt Lake City,
Utah, to J. H. Deming, secretary, on or
before Nov. 5, 1998.
Any stock upon which sald assessment
shall remain unpaid on the said 5th day of
November, 1998, will be delinquent and

shall remain unpaid on the said 5th day of Novembet, 1908, will be delinquent and advertised for sale at public auction, and unless payment is made before, will be sold on Nov. 25, 1908, at 1 o'clock p. m. of said day, to pay the said delinquent assessment thereon, together with the costs of advertising and expenses of sale.

J. H. DEMING, Secretary.

No. 12 East Second South street. Salt Lake City, Utah.

Assessment No. 1. THE COOPER PHARMACAL COM-

THE COOPER PHARMACAL COMpany, a corporation of Utah. Principal place of business, Salt Lake City, Utah. Notice is hereby given that at a meeting of the board of directors of the above named corporation held on the 1st day of October, 1908, an assessment of ten (10) cents a share was levied on the outstanding stock of the company, payable at once at the office of J. S. Critchlow, 169 South Main street, Salt Lake City, Utah. Any stock upon which this assessment will be advertised for sale at public auction, and unless payment is made before, will be sold on Wednesday, the 25th day of November, 1908, at 9:30 o'clock a. m., at the offices of the corporation, to pay the delinquent assessment, together with may remain unpaid November 5th, 1908, shall become delinquent and advertised for sale at public auction on Wednesday, Dec. 9, 1908, at 2 o'clock p. m., at 169 South Main street, to pay the delinquent assessment, together with the cost of advertising and expense of sale. Payments may ing and expense of sale. Payments may be made to J. S. Critchlow, at his office, 169 South Main street. FRED W. SCARFF, Secretary.

Stop Koffing

We carry everything known that wil We carry everything known that will stop a cough—medicated candy, loz-enges, tablets, syrups, etc. Our Blue Ribbon remedy has no equal. A chest protector will assist by keeping the keen winds off the lungs. Our reme-dies cure both the old and young. Both phones 457. Remember the num-ber.

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A. J. HAMILTON-Architect, 423-424 Dooly Block. Bell phone 5339. J. C. CRAIG, architect, located in D. Walker building.

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Manufacturers of bank, office, bar and store fixtures; also show cases, wall cases, desks, etc., etc. Agents for the Brunswick-Balke-Collender company's billiard and pool tables and supplies. Our fixtures are practical, up-to-date and of exclusive design. We are carrying the largest stock of pool tables and supplies in the west. See our show rooms, warehouse and factory. We are also manufacturing and handling everything pertaining to soda fountains, carbonaters, etc. Correspondence solicited.

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itectural and engineering works. Ph Bell 1331, Ind. 3287. 311 Sharon Bldg. LET US build you a home on your lot or ours. Enterprise Realty & Inv. Co., 58 W. 2d South

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Assessment No. 2.

COLUMBUS EXTENSION MINING COLUMBUS EXTENSION MINING company. Office and principal place of business. Salt Lake City, Utah. Notice is hereby given that at a meeting of the board of directors of the Columbus Extension Mining company, held on the tenth day of October, 1908, an assessment of one cent per shared was levied upon the capital stock of the corporation issued and outstanding, payable immediately to the secretary at the offices of the corporation, Rooms 201-2 Judge building, Salt Lake City, Utah. Any stock upon which this assessment

WOODLAWN COPPER MINING CO.

rincipal place of business, Salt Lake Principal place of business, City, Utah.

Notice is hereby given that at a meeting of the board of directors, held on Oct. 7, 1908, an assessmest of one-half cent pershare was levied on the outstanding capital stock of the corporation, payable immediately to George N. Lawrence, secretary, at room 305 Atlas block, Salt Lake City, Utah. Any stock upon which this assessment may remain unpaid on Nov. assessment may remain unpaid on Nov. 10 Sprinz, von the tion building, Cincinnati, Ohio. Are upon which this assessment may be delinquent unless payment is made before, sold on November 25th, 1908, to delinquent assessment, together cost of advertising and expense G. W. BROWNING, Se City, Utah. Any stock upon which this assessment may remain unpaid on Nov. 9, 1908, will be delinquent and advertised for sale at public auction, and unless payment is made before, will be sold on Nov. 28, 1908, at 12 o'clock noon, to pay the delinquent assessment, together with the cost o' advertising and expense of sale. GEO. N. LAWRENCE, Secretary. Room 305 Atlas Block, Salt Lake City,

Notice.

I, ARTHUR CHARLES KEAY, will not e responsible for any debts contracted by my wife, Mrs. Minnie Bell Keay. (Signed) ARTHUR CHARLES KEAY.

The name is a guarantee of its

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ore or residence. Bell 4119. Res. 2378-1

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IF YOU are going to build a home, see me. M. M. King, 221 Constitution Bldg. Bell 1734, Ind. 1129-R.

Tin, sheet iron and copper work and repairing. 272 So, State St.

OSTRICH PLUMES CLEANED. F. A. CARTER FUR CO, 27 W. 1st Sa.

TIN SHOP.

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SILVER KING CONSOLIDATED MIN ing company of Utah. Principal pla business, Salt Lake City, Utah. Notice is hereby given that at a ing of the directors held on Oct. 2d an assessment of five (5) cents per was levied on all the issued and outs ing sheres of the genital state. ing shares of the capital stock of sa poration, payable on November 4th to G. W. Browning, secretary of the pany, at rooms 401 and 402, Atlas West Second South street, Sait Lak Utah, or to Spritz, Voll & Co., 312 tion building. Cincipati 6th G. W. BROWNING, Sec. Office 401 and 402 Atlas Block, St. City, Utah.

Assessment No. 34.

WABASH MINING COMPANY cipal place of bu Utah-Notice is h meeting of the board of direct the 10th day of October, 1908, ment of eight (8) cents per levied on the capital stock of ration, payable on or before of November, 1908, to W. M secretary, at room 520 Atlas second South street. Salt Lake may remain unpaid on the November, 1908, will be del advertised for sale at public unless payment is made before sold on the 3d day of Decembe pay the delinquent assessment with all cost of advertising an of sale.

W. MONT. F.

Location of offices, 520-521-522 Atlas Block Salt Lake City, Utah.

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